

HOUSE BILL 556

By Hensley

AN ACT to amend Tennessee Code Annotated, Title 4,
Chapter 3, Part 18 and Title 68, relative to do not
resuscitate orders.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 68-11-224, is amended by deleting
such section in its entirety and by substituting instead the following:

§ 68-11-224.

(a) A universal do not resuscitate order may be issued in accordance with
subsection (k) or by a physician for a patient with whom the physician has a bona fide
physician/patient relationship, but only:

(1) With the consent of the patient;

(2) If the patient is a minor or is otherwise incapable of making an
informed decision regarding consent for such an order, upon the request of and
with the consent of the agent, surrogate, or other person authorized to consent
on the patient's behalf under the Tennessee Health Care Decisions Act, compiled
in part 18 of this chapter; or

(3) If the patient is a minor or is otherwise incapable of making an
informed decision regarding consent for such an order and the agent, surrogate,
or other person authorized to consent on the patient's behalf under the
Tennessee Health Care Decisions Act, is not reasonably available, the physician
determines that the provision of cardiopulmonary resuscitation would be contrary
to accepted medical standards.

(b) If the patient is an adult who is capable of making an informed decision, the
patient's expression of the desire to be resuscitated in the event of cardiac or respiratory

arrest shall revoke a universal do not resuscitate order. If the patient is a minor or is otherwise incapable of making an informed decision, the expression of the desire that the patient be resuscitated by the person authorized to consent on the patient's behalf shall revoke a universal do not resuscitate order. In the case of a do not resuscitate order issued in accordance with subsection (k), notice from the patient directing the vendor to remove such patient's name from the vendor's database shall revoke a universal do not resuscitate order. In addition, failure to wear a do not resuscitate necklace shall revoke a universal do not resuscitate order issued in accordance with subsection (k). Nothing in this section shall be construed to require cardiopulmonary resuscitation of a patient for whom the physician determines cardiopulmonary resuscitation is not medically appropriate.

(c) Universal do not resuscitate orders issued in accordance with this section shall remain valid and in effect until revoked. In accordance with this section and applicable regulations, qualified emergency medical services personnel, and licensed health care practitioners in any facility, program or organization operated or licensed by the board or by the department of mental health and developmental disabilities or operated, licensed, or owned by another state agency are authorized to follow universal do not resuscitate orders that are available to them in a form approved by the board.

(d) Nothing in this section shall authorize the withholding of other medical interventions, such as intravenous fluids, oxygen, or other therapies deemed necessary to provide comfort care or to alleviate pain.

(e) For the purposes of this section:

(1) "Emergency responder" means a paid or volunteer firefighter, law enforcement officer, or other public safety official or volunteer acting within the

scope of such person's proper function under law or rendering emergency care at the scene of an emergency;

(2) "Health care provider" shall have the same meaning as ascribed to that term in § 68-11-1802(a), and shall include, but shall not be limited to, qualified emergency medical services personnel;

(3) "Person authorized to consent on the patient's behalf" means any person authorized by law to consent on behalf of the patient incapable of making an informed decision or, in the case of a minor child, the parent or parents having custody of the child or the child's legal guardian or as otherwise provided by law;

(4) "Qualified emergency medical service personnel" shall include, but shall not be limited to, emergency medical technicians, paramedics, or other emergency services personnel, providers, or entities acting within the usual course of their professions, and other emergency responders; and

(5) "Universal do not resuscitate order" means a written order that applies regardless of the treatment setting and that is signed by the patient's physician that states that in the event the patient suffers cardiac or respiratory arrest, cardiopulmonary resuscitation should not be attempted. Universal do not resuscitate order" also means do not resuscitate necklace issued in accordance with subsection (k).

(f) If a person with a universal do not resuscitate order is transferred from one (1) health care facility to another health care facility, the health care facility initiating the transfer shall communicate the existence of the universal do not resuscitate order to the receiving facility prior to the transfer. The transferring facility shall assure that a copy of the universal do not resuscitate order accompanies the patient in transport to the

receiving health care facility. Upon admission, the receiving facility shall make the universal do not resuscitate order a part of the patient's record.

(g) This section shall not prevent, prohibit, or limit a physician from issuing a written order, other than a universal do not resuscitate order, not to resuscitate a patient in the event of cardiac or respiratory arrest in accordance with accepted medical practices. This section shall have no application to any do not resuscitate order that is not a universal do not resuscitate order as defined in this section.

(h) Valid do not resuscitate orders or emergency medical services do not resuscitate orders issued before July 1, 2004, pursuant to the then-current law, shall remain valid and shall be given effect as provided in this section.

(i)

(1) The board shall promulgate rules and create forms regarding procedures for the withholding of resuscitative services from patients in accordance with the provisions of this part and this section.

(2) The rules shall address:

(A) The mechanism or mechanisms for reaching decisions about the withholding of resuscitative services from individual patients;

(B) The mechanism or mechanisms for resolving conflicts in decision making, should they arise; and

(C) The roles of physicians and, when applicable, of nursing personnel, other appropriate staff, and family members in the decision to withhold resuscitative services.

(3) The rules shall include provisions designed to assure that patients' rights are respected when decisions are made to withhold resuscitative services and shall include the requirement that appropriate orders be written by the

physician primarily responsible for the patient, and that documentation be made in the patient's current clinical record if resuscitative services are to be withheld.

(4) The provisions of this section shall not be construed or implemented in any manner that restricts or impairs the decision-making authority of the agent, surrogate, or other person designated in the Tennessee Health Care Decisions Act. This section does not authorize a surrogate to give consent for or take any action on behalf of a patient on any matter governed by title 33.

(j) A health care provider or institution acting in good faith and in accordance with generally accepted health care standards applicable to the health care provider or institution is not subject to civil or criminal liability for:

(1) Complying with a universal do not resuscitate order;

(2) Declining to comply with a universal do not resuscitate order based on a reasonable belief that the order then lacked validity; or

(3) Complying with a universal do not resuscitate order and assuming that the order was valid when made and has not been revoked or terminated.

(k)

(1) The department of health shall develop a uniform do not resuscitate necklace program whereby any adult person who is capable of making an informed decision and who otherwise complies with the rules and regulations of the program as established by the department may obtain a do not resuscitate necklace from an approved vendor by submitting an application which clearly state's the applicant's wish.

(2) The department shall promulgate rules in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, for the implementation and administration of the program, including eligibility

requirements for vendors who desire approval to issue do not resuscitate necklaces, which shall include:

(A) A requirement that each approved vendor maintain an electronic database that contains the name, address, and such other identifying information as the department may require, for every individual who has been issued a do not resuscitate necklace by such vendor, and who has not notified such vendor to remove such individual's name from the database; and

(B) A requirement that each approved vendor notify the appropriate emergency services providers, including hospitals offering emergency services, in the county of residence of any person who obtains a do not resuscitate necklace from such vendor, whenever services are instituted, substantially changed, or terminated. The notice required by this subdivision (k)(2)(B) shall be via certified United States mail.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it.